

REMARKS

In the Office Action the Examiner has rejected claims 1, 9-10, and 21 for being anticipated by Engel et al. (U.S. Patent No. 5,244,446). The Examiner has also rejected claims 2-5, 8, 11-16, 18, 20 and 25 for being unpatentable over Engel et al. in view of various other cited references. Also, though not specifically indicated, Applicant has considered that claims 22-24 have also been rejected for being unpatentable. Further, the Examiner has indicated that there is allowable subject matter in original claims 6-7, 17 and 19.

In response to the Office Action, independent claims 1, 13 and 21 for the present invention have all been amended to require that the second end of the first arm be stabilized during a movement of the first arm about the stabilized second end. As now claimed for the two-arm device of the present invention, an end of one arm can be stabilized while the other arm is rotated about the joint assembly that interconnects the two arms. Support for these amendments is found in the specification on page 5 at lines 10-14 and in Figs. 5a, 5b, 6a and 6b. In addition to the amendments of independent claims 1, 13 and 21, an independent claim 26 has been added. Specifically, the examiner has indicated a claim such as new claim 26 would be allowable, because it contains the combined limitations of claim 17, 16 and 13 (base claim). Claims 1-26 are now pending.

The claims have been amended to improve the readability of the claims, to more clearly define the structure, and to point out the features which distinguish this invention over the cited art.

Rejections Under 35 U.S.C. § 102(b)

Claims 1, 9-10 and 21 have been rejected under 35 U.S.C. § 102 (b) for being anticipated by Engel et al.

As indicated above, independent claims 1 and 21 have been amended to respectively require a two-arm device and a method for the use, wherein the end of one arm of the device is stabilized while another arm of the device is rotated for exercise purposes. Engel et al. neither teach nor suggest such a structure or cooperation of structure.

Unlike the claims for the present invention, Engel et al. accomplish stabilization of their exercise device by having the user sit on the seat of the device. As disclosed by Engel et al., it is the seat, together with its other associated structure, that is used to stabilize the device (see col. 4 lines 10-16). More specifically, Engel et al. disclose a structure which necessarily stabilizes all of the structure on one side of a pivot point. Thus, in contrast with the claims for the present invention, Engel et al. do not teach or suggest a two-arm device wherein one end of one arm is stabilized but allows for the movement of both arms.

For the reasons set forth above, Applicant believes the basis for rejecting claims under 35 U.S.C. § 102 (b) for being anticipated by Engel et al. has been overcome and the rejections should be withdrawn.

Rejections Under 35 U.S.C. § 103 (a)

Claims 2-5, 8, 11-16, 18, 20 and 25 (as well as the unspecified claims 22-24) have been rejected for being unpatentable over Engel et al. in view of various other cited references. In responding to these rejections, it is to be noted that independent claim 13 has been amended to include the same limitations mentioned above when arguing for the novelty of amended claims 1 and 21.

For the same reasons given above in response to the rejection of claims from being anticipated by Engel et al., Applicant believes that all claims for the present invention are now patentable. Specifically, like Engel et al., but unlike the amended claims for the present invention, none of the cited references teaches or suggests a two-arm device or a method wherein one end of one arm of the device is stabilized, while both arms of the device may be rotated for exercise purposes. Because all amended claims for the present invention now require such limitations, Applicant contends the claims for the present invention are patentably distinguished and the rejections under 35 U.S.C. § 103 (a) should be withdrawn.

The references cited by the Examiner, but not relied on for the rejection of claims, have been noted.

In conclusion, Applicant respectfully asserts that claims 1-26 are patentable for the reasons set forth above, and that the application is now in a condition for allowance. Accordingly, an early notice of allowance is respectfully requested. The Examiner is requested to call the undersigned at 619-688-1300 for any reason that would advance the instant application to issue.

Dated this 17th day of April, 2003.

Respectfully submitted,



NEIL K. NYDEGGER
Attorney for Applicant
Registration No. 30,202

NYDEGGER & ASSOCIATES
348 Olive Street
San Diego, California 92103
Telephone: (619) 688-1300